

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHERRON MARIE PHILLIPS,

Defendant.

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Case No. 1:12-cr-872

MEMORANDUM AND ORDER

REAGAN, District Judge:

Defendant Cherron Marie Phillips, also known as River Tali Bey, is charged with 12 counts of retaliating against a federal judge or federal law enforcement officer by false claim, in violation of 18 U.S.C. §§ 1521 and 2 (Doc. 1). More specifically, it is alleged that Phillips filed and/or aided and abetted the filing of false liens and encumbrances against the real and personal property of numerous federal judges, prosecutors and law enforcement agents (or attempted to do so).

Defendant and the Government have submitted competing jury instructions defining “lien” and “encumbrance” (compare Defendant’s No. 15; Government’s No. 15). For the reasons that follow, Defendant’s instruction will be refused and the Government’s instructions shall be given.

Defendant’s instruction (No. 15) is disjointed and somewhat misleading. It defines “lien” in one paragraph and “false statement” in another paragraph. “Lien” and “encumbrance” are treated as synonyms, which they aren’t. Furthermore, saying a “lien” is a “legal right” implies that the lien must be lawful.

In *United States v. Reed*, 668 F.3d 978 (8th Cir. 2012), the appellate court explained:

The words “lien” and “encumbrance,” though encompassing a wide variety of commercial and financial devices, have a universally accepted meaning in this country. A lien is a property right, usually a legal right or interest that a creditor has in a debtor’s property, whether perfected or merely claimed. *See, e.g., Permanent Mission of India to the United Nations v. City of New York*, 551 U.S. 193, 198, 127 S.Ct. 2352, 168 L.Ed.2d 85 (2007); *Mead v. Mead*, 974 F.2d 990, 992 (8th Cir.1992), quoting 11 U.S.C. § 101(37); *S.E.C. v. Credit Bancorp., Ltd.*, 297 F.3d 127, 138 (2d Cir.2002); *Black’s Law Dictionary* 941 (8th ed. 2004). Likewise, an encumbrance is a claim or liability that attaches to property, usually though not always real property. *Permanent Mission*, 551 U.S. at 198, 127 S.Ct. 2352; *Black’s, supra*, at 568; UCC § 9–102(32). The act of filing does not create the lien or encumbrance. Rather, filing is a method, often the exclusive method, of *perfecting* a lien claim against the rights of those who assert competing claims against the property. *See, e.g.,* UCC § 9–310(a). This confirms that Congress limited the prohibition in § 1521 to financial harassment—filings that harass by claiming rights to the property of public officials—not to all types of false public filings that might harass public agencies or officials in other ways.

Id. at 982-83.

IT IS THEREFORE ORDERED that Defendant’s Jury Instruction No. 15 is **REFUSED** and the Government’s Jury Instruction No. 15 is **GIVEN** over objection.

IT IS SO ORDERED.

DATED: June 12, 2014

s/ Michael J. Reagan

MICHAEL J. REAGAN

UNITED STATES DISTRICT JUDGE